

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Regulatory and Abandoned Mine Land Programs

Administered by the Commonwealth

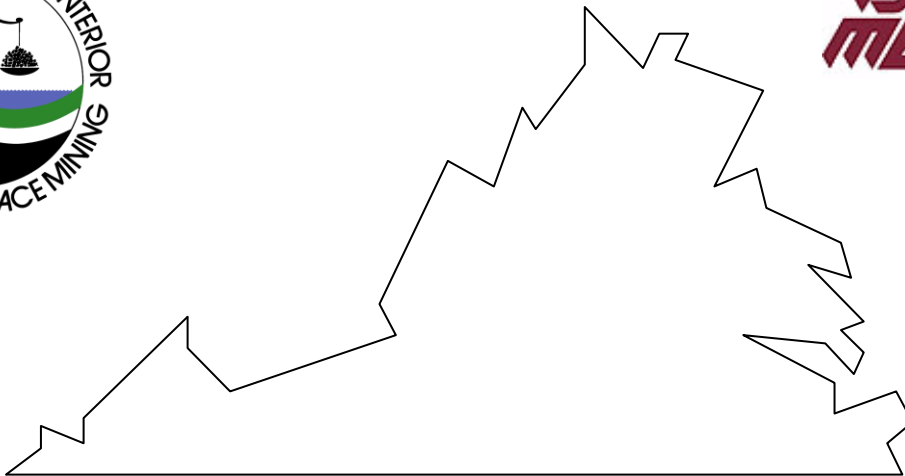
of

VIRGINIA

for

Evaluation Year 2009

(July 1, 2008 to June 30, 2009)



SEPTEMBER 2009

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## I. INTRODUCTION

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory and abandoned mine land programs that have been approved as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Virginia program and its effectiveness in meeting the applicable purposes of SMCRA as specified in section 102. The Virginia program is administered by the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation. This report covers the period of July 1, 2008, to June 30, 2009. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Big Stone Gap OSM Office.

The following list contains acronyms used in this report:

AML	Abandoned Mine Land	NEPA	National Environmental Policy Act
ARRI	Appalachian Regional Reforestation Initiative	OSM	Office of Surface Mining Reclamation and Enforcement
DMLR	Division of Mined Land Reclamation	SMCRA	Surface Mining Control and Reclamation Act
DMME	Department of Mines, Minerals and Energy	TIPS	Technical Innovation and Professional Services
EY	Evaluation Year		

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## II. Overview of the Virginia Coal Mining Industry

Coal is one of Virginia's most abundant energy resources and has been important to the State's development since the colonial period. The first commercial production of coal in the United States was in 1748 from the Richmond Coalfield just west of Richmond, Virginia. This coalfield flourished until the Civil War, which destroyed much of Virginia's coal fueled industry. Mining in the Valley Coalfields was initiated in 1790 and the coal was used for local iron smelters and blacksmiths. The first significant commercial development occurred in 1853 and production reached its' historic peak in

1943-1944. Production ceased in the 1970's.

In 1883, the Norfolk and Western Railway opened the first major production mine in Southwestern Virginia at Pocahontas in Tazewell County. Since that time, the seven counties comprising the Southwestern Virginia Coalfields, Wise, Buchanan, Dickenson, Tazewell, Lee, Russell and Scott have dominated Virginia coal production.

The Southwestern Virginia Coalfield is part of the Central Appalachian Coalfield that includes Eastern Kentucky and Southern West Virginia. In Virginia, bituminous coal is produced

from over two dozen Pennsylvanian age coal seams that vary in thickness from under one foot to occasionally over six feet in thickness. The coalfield area is characterized by steep slopes and narrow valleys with some local areas having a less rugged, rolling topography. Due to steep topography, Virginia mines are predominantly underground and contour surface operations. A limited number of mountaintop removal, deep shaft, and area-type operations also exist. Since the effective date of SMCRA, Virginia coal production increased from 29 million tons in 1978 to a high of 47 million tons in 1990. For calendar year 2008, production was a little over 23.0 million tons. Figure 1 shows the last 23 calendar years of production data. Appendix A, Table 1 shows coal production for the last three calendar years.

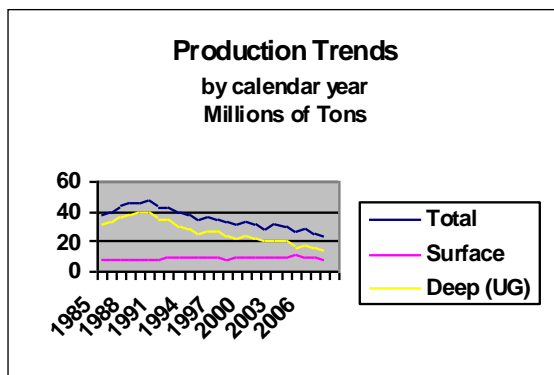


Figure 1

According to 2007 U. S. Department of Energy statistics, Virginia's production ranked eleventh among coal producing states

(<http://www.eia.doe.gov/cneaf/coal/page/acr/table6.html>).

In 2000, Virginia ranked eighth in coal production. Based on calendar year production data, approximately 65 percent of the production comes from underground mines and 35 percent from surface mining. Virginia produces higher quality coal with higher BTU's (British Thermal Units) and lower sulfur

content than the national average. This has historically made Virginia coal attractive for metallurgical coke production and for the export market.

During 2007, coal accounted for less than one percent (0.40) of Virginia's Gross State Product (Source: U. S. Bureau of Economic Analysis <http://www.bea.gov/regional/gsp.action.cfm>). Coal production and related industries have a significant economic impact in Southwest Virginia. In the seven coal producing counties, coal mining is one of the major industries. Employee compensation of over \$262 million was derived from the mining industry during 2007 (Source: U. S. Bureau of Economic Analysis). Coal mining employment in Virginia peaked at 20,741 in 1981 and declined to 4,366 in 2008 (Source: U. S. Bureau of Economic Analysis <http://www.bea.gov/bea/regional/reis/default.cfm#a>). In 2008, 4.9 percent of the coalfield counties' workforce worked in the mining industry, compared to 8 percent in 2001. For 2008, unemployment in the seven coalfield counties in Southwest Virginia averaged 5.0 percent. The State wide average was 4.0 percent and U.S. average was 5.8 percent (Source: Virginia Employment Commission).



#### Active Surface Mine Permit

Virginia currently has 414 inspectable mining units; 159 surface mines, 186 underground mines, and 69 support activities. Additionally, there are 90

active coal exploration notices. Currently, the State oversees 150 producing surface mines, 169 producing underground mines, and 63 active support facilities. The average permitted acreage is 406 acres for surface mines, 40 acres for underground mines, and 101 acres for support facilities. OSM has seen a reduction in the number of inspectable units during the past 21 years, the trend toward fewer, larger operations is evident (Figure 2).

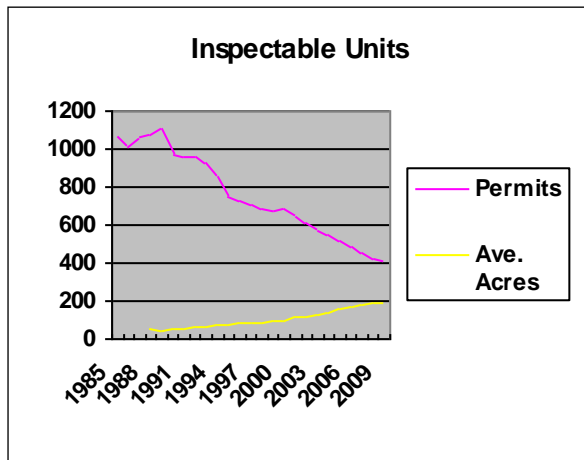


Figure 2

Since the 1950's, Virginia has documented twelve deaths associated with coalfield abandoned mine land hazards. The last reported death occurred in 2000. Five deaths were from drowning, three were falls from highwalls, two were burning refuse suffocations, one was caused by a gob waste landslide into a residence, and one was caused by a rockslide associated with abandoned underground mine subsidence. Two injuries occurred because of a collapsing refuse pile, and one documented injury occurred when a slumping underground face-up area slid into a residence. A large number of AML related hazards are still present in the coalfields and are being addressed on a priority basis.

The abandoned mine land program has had a significant impact in Virginia. The

following is a sampling of the many accomplishments of the Virginia abandoned mine reclamation program. Since 1978, Virginia has restored 77 miles of streams and reclaimed 983 acres of clogged stream lands; eliminated 55 dangerous impoundments; reclaimed 277 acres of dangerous piles and embankments; sealed 1,229 dangerous mine openings and 124 vertical openings; replaced 6,106 water supplies adversely impacted by mining; and reclaimed over 6 miles of dangerous highwalls

(<http://ismhdqa02.osmre.gov/scripts/OsmWeb.dll>).



AML Project – Log check dam with rip rap erosion protection

### III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

At the beginning of the 2009 oversight year, OSM and DMLR developed an annual oversight plan. During the developmental process of this plan, announcements were published in newspapers of general circulation in the coalfields soliciting input into the plan. Notices were also mailed to interested citizen, industry, and environmental groups. As a result of the advertisement and direct mailing, no recommendations for the work plan were received.

OSM's Big Stone Gap office met with citizens, industry, and agencies on numerous occasions during the year to discuss issues such as reining, experimental practices, and clean streams.

DMLR met with citizens on numerous occasions to discuss concerns. Additionally, the State held several other

meetings addressing agency permitting initiatives, electronic permitting initiatives, ARRI, and reining.

DMLR held eight informal conferences on pending permit applications.

#### **IV. Major Accomplishments, Issues, or Innovations in the Virginia Program**

This year marks the 28th anniversary of a primacy program in the Commonwealth of Virginia. The maturation of the program has helped protect the public and minimize environmental impacts within the Virginia coalfields.

Over the past year OSM monitored DMLR's performance in meeting the goals and objectives of the approved State program. Once again, OSM finds that DMLR is successful in implementing both its regulatory and abandoned mine land programs. A list of the oversight reviews used to reach this conclusion is included in section VII of this report. OSM looks forward to working cooperatively with Virginia during the next year.

Major accomplishments and innovations for this year include:

- Partnered with U.S. Army Corps of Engineers, LENOWISCO, and Lee County to accomplish the North Fork Powell River Ecosystem Restoration Project.
- Launched a pilot inventory project update in a high priority Total Maximum Daily Load (TMDL) watershed.
- Partnered with the Natural Resources Conservation Service (NRCS) to implement a watershed restoration project in the North Fork Powell River. NRCS granted significant funding for the project in 2009.
- Along with OSM, continued a project to investigate the use of remote sensing capabilities for identifying and quantifying the reclamation of abandoned mine land and the evaluation of reforestation practices on mined land.
- Partnered with The Nature Conservancy to initiate a prioritization effort for AML features in the Clinch and Powell River watersheds.
- Encouraged industry to use Abandoned Mine Land no-cost agreements to reclaim abandoned mined lands. Primarily no-cost agreements allow mining companies to use excess spoil from permitted mining operations to eliminate abandoned mine highwalls that normally would not be reclaimed. In addition to reclaiming abandoned mine land highwalls, the practice also minimizes the development of new valley and hollow fills and reduces impacts to coalfield streams.
- Collaborated with local watershed organizations including the Powell River Partnership, Guest River Group, Upper Tennessee River Roundtable,

Big Sandy River Basin Coalition (BSRBC), and the Clinch River Headquarters Association.

- Continued development and implementation of the Total Maximum Daily Load (TMDL) Program. Successes include removal and reclamation of an AML gob pile and large landslide for TMDL offset credits.
- Continued to study, in partnership with the U.S. Army Corps of Engineers, the impacts of acid mine drainage in the Powell River watershed. Efforts continue toward a comprehensive construction project, the Powell River Ecosystem Restoration Project, to mitigate acid mine drainage impacts.
- Authored articles for the National Association of Abandoned Mine Land Program newsletter and the National Association of State Land Reclamationists' newsletter. Also authored an article on the Forestry Reclamation Approach and wildlife habitat on surface mined land (published in December 2008 edition of "The Virginia Mining Journal").
- With the assistance of OSM, the Virginia Department of Forestry, The Nature Conservancy, the American Chestnut Foundation, and the Clintwood Elkhorn Coal Company, DMLR held the fifth annual Arbor Day celebration. Approximately 350 students from Virginia and Kentucky schools participated in the event by planting hardwood seedlings on a forestry reclamation approach permit site.



**Arbor Day 2009 - Buchanan County Virginia sixth grade students**

- Promoted reforestation of active mines and abandoned mine land following the guidelines of the ARRI.
- Engaged, through a Memorandum of Understanding, with the Environmental Protection Agency Regions III and IV and Tennessee Department of Environment and Conservation, to improve water quality and aquatic habitat in the Clinch and Powell River watersheds.
- Assisted OSM in developing the OSM EY 2010 Oversight Work Plan and Performance Agreement.
- Managed contracts and on-ground reclamation for numerous AML project areas through the AML enhancement rule.
- Inspected all MSHA class impoundments with Division of Mines and Mine Safety and Health Administration per a Memorandum of Understanding.
- Served on the ARRI Work Group, Indiana Bat and Coal Mining Steering Committee, Stream Assessment / Stream Restoration Steering Committee, Ground Water Protection Steering Committee, OSM American Society for Testing Materials



Geospatial Standards Task Group, Mountain Empire Geographic Information Systems User Group, Interstate Mining Compact Commission Underground Mine Mapping Steering Committee, Appalachian Regional Technology Transfer Team, OSM TIPS Steering Committee, Virginia Geographic Information Systems Conference, and National Mining Geospatial Committee.

- Provided instructors for OSM's TIPS and Technical Training programs.
- Participated in OSM's TIPS and Technical Training program courses.
- Approved and electronically distributed guidance memoranda to staff, industry, and interested parties.
- Cooperated with the Virginia Department of Game and Inland Fisheries on Quail Habitat Improvement in Southwest Virginia.
- Continued to meet with the AML Project Development Work Group to further the objectives of the AML reclamation program. The group consists of state/federal agency personnel, industry, resource managers, academia and conservationists.
- Made presentations at OSM's Geomorphic Reclamation and Natural Stream Design of Coal Mines; the Virginia Mining Engineering Conference; and the Mine Safety and Health Administration/DMME Engineering Providers Conference.
- Participated in the OSM Appalachian Region Technology Transfer Workgroup in the exchange of technology with the states of the Appalachian Coalfields.
- Continued to conduct NPDES compliance inspections on environmental labs that performed analyses to insure accurate data collection.
- Made presentations on geology, GIS, aerial photography, and satellite imagery to numerous elementary and high school students throughout Southwest Virginia.
- Nominated sites for the Virginia Mining Association, OSM and the Interstate Mining Compact Commission reclamation awards.
- Held tree planting events to promote ARRI in cooperation with OSM VISTAs and others.

## **V. Success in Achieving the Purposes of SMCRA as Measured by the Number of Observed Off-Site Impacts and the Number of Acres Meeting the Performance Standards at the Time of Bond Release**

To further the concept of reporting end results, the findings from performance standard evaluations are being reported nationally in terms of the number and extent of observed off-site impacts and the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation. Individual topic reports are available in the Big Stone Gap OSM Office. These reports provide additional details on how the following evaluations and measurements were conducted.



### A. Off-Site Impacts:

During the evaluation year, DMLR inspectors conducted 4,610 inspections on 414 mine permits. OSM analyzed off-site impact data (Appendix A, Table 4) from the inspections. Eighty-nine percent of mine sites inspected were free of off-site impacts, compared to 94 percent last year and 88 percent during EY 2007. Fifty-six percent of this year's violations resulted in off-site impacts compared to 49 percent last year. The extreme drought conditions prevailing in the Virginia coalfields for approximately 18 months ended during this evaluation year and likely contributed to this increase. Figure 3 shows graphically the distribution of off-site impacts. Water remains the resource most often impacted by violations, followed by land, people, and structures. Appendix A, Table 4 details the distribution of and resources impacted by off-site impacts. DMLR considered the impacts to resources as minor or moderate 95 percent of the time, compared to 92 percent last year.

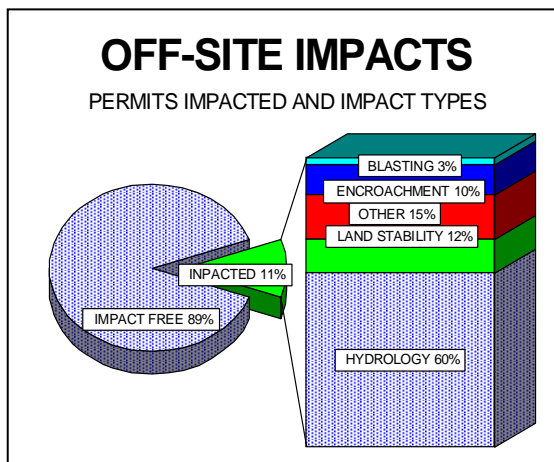


Figure 3

OSM inspected 60 sites and gathered data on off-site impacts to verify DMLR findings. Inspectors found 85 percent of

the sites visited were free of off-site impacts. The data collected by OSM shows trends similar to those found by DMLR in the larger population. Both DMLR and OSM data indicate that the off-site impacts to resources are being minimized. OSM and DMLR will work to reduce off-site impacts in evaluation year 2010.

### B. Bond Release:

DMLR records indicate that 2,664 acres of land received Phase III bond release during the evaluation year. As part of a special study, OSM reviewed 5 of 18 operations that applied for Phase III bond release during the evaluation year. OSM found on-the-ground reclamation successful on the sampled sites. Reclamation achieved the post-mining land use on the sites. Our review of DMLR's bond release program found again that DMLR was timely in responding to public comments and processed bond releases in a timely manner. DMLR's bond release staff is actively supporting the Appalachian Regional Forestry Initiative (ARRI) and encouraging the use of the Forestry Reclamation Approach (FRA).

### C. Customer Service:

The DMLR is customer service-oriented. Customer service is an integral part of the State's strategic planning. The Department of Mines, Minerals and Energy maintains a "client assistance center" in its office in Big Stone Gap to serve its customers better. OSM believes the State is providing the utmost in service to all of its customers.

OSM's review of DMLR's bond release program found that DMLR responded to public comments and concerns in a timely manner.

To better serve its customers, DMLR's management met with field personnel, emphasizing the importance of:

- Performing routine maintenance checks after storm events and follow-up.
- Stressing to mine personnel the need for routine maintenance after storm events.
- Maintaining an accurate inventory of ponds and fills that require monitoring and certification.
- Reminding operators to contact DMLR of occurrence of slides and effluent violations on their permits.
- Checking drainage on hollow fill underdrains and fill face.
- Routinely reviewing plan requirements with mine personnel.
- Participating in DM/MSHA minesite safety reviews.
- DMLR reorganized its AML program to more effectively achieve new reclamation goals.

## VI. OSM Assistance

During the past year, OSM provided technical training to DMLR staff members on a variety of subjects through OSM's Technical Training and TIPS staffs. Technical staff assisted DMLR investigations of both AML and regulatory technical issues by providing engineering, geologic and hydrologic expertise. The technical staff also processed a number of experimental practice release applications.

OSM's Appalachian Region continued to partner with the States to develop the *Appalachian Regional Reforestation Initiative*, a program that promotes the reforestation of mined lands. *ARRI's* goal is re-establishment of a productive and healthy forest.

OSM provides 50 percent funding for Virginia's Regulatory program and 100 percent funding for the abandoned mine land and emergency programs.



**Virginia Arbor Day - Students plant trees on Virginia's first permit to fully implement the FRA**

This year, OSM's Big Stone Gap Office:

- Assisted DMLR with its fifth annual Arbor Day celebration. The Virginia Department of Forestry, The Nature Conservancy, and the American Chestnut Foundation also provided assistance. Nearly 1,000 hardwood seedlings were planted using the forestry reclamation approach method.
- Served on or participated in advisory and / or ad-hoc committees for remining, AML, Clinch Powell Clean Rivers Initiative, the Powell River Ecosystem Study, the Guest River Group, Upper Tennessee River Round Table and the Big Sandy Watershed Protection Conference.
- Supported State AML enhancement and "no cost" reclamation efforts.
- Met with its constituents, the U. S. Fish and Wildlife Service, U. S. Army Corps of Engineers, DMLR, and the

Virginia Department of Game and Inland Fisheries, to develop procedures for implementing the 1996 Biological Opinion.

- Served on OSM's Regional AML Consistency Team, sharing information to ensure that OSM applies AML program requirements consistently throughout the Appalachian Region.
- Facilitated the Indiana Bat work group, an inter-agency group which developed range-wide protection guidelines.
- Served on the national OSM Inspection and Enforcement System rewrite team, rewriting and enhancing OSM's inspection and enforcement database.

## VII. General Oversight Topic Reviews

During the evaluation year OSM and / or DMME / DMLR evaluated the following oversight topics. Unless otherwise noted, the reviews were conducted by teams representing both OSM and DMLR. Copies of the detailed reports for these topics are available at OSM's office in Big Stone Gap, Virginia.

- *Active permit inspections* – A team evaluated Virginia's regulatory program focusing on active coal producing permits rather than permits in active / reclamation active status. The team conducted 60 comprehensive inspections. The review found that the DMLR has a successful inspection and enforcement program. Fifty-one of 60 permits did not have off-site impacts. Off-site impact findings are discussed in Section V. A. of this report.
- *Phase III Bond Release Reclamation Success* – A team evaluated Virginia's review and approval processes for final

bond release applications for permits under the Title V program. DMLR assures that field work is completed prior to receiving bond release applications. DMLR is successfully implementing the program for processing and releasing bonds.

- *AML Non-Emergency Construction Management* – A team evaluated DMLR's performance in managing AML non-emergency construction activities. Project construction occurred timely and met the requirements of the approved DMLR Abandoned Mine Land Reclamation Plan, contract terms, NEPA

requirements, project designs, and technical specifications. The AML features included in AML non-emergency construction contracts were abated and effectively reclaimed at construction completion.

- *National Environmental Policy Act (NEPA) Compliance Reviews* – During EY 2009 OSM conducted reviews of environmental documents submitted by DMLR for NEPA compliance,

issued authorizations to proceed on 18 non-emergency AML sites, and declared emergencies on 4 sites with AML hazards.

- *Drawdown Analysis Review* – Due to scheduling conflicts, this review was not conducted during Evaluation Year 2009. The review will be conducted during Evaluation Year 2010 and will include drawdowns occurring in Fiscal Year 2009 and 2010.

## **APPENDIX A**

These tables present data pertinent to mining operations and State and Federal regulatory activities within Virginia. They also summarize funding provided by OSM and Virginia staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the same as the evaluation year. Additional data used by OSM in its evaluation of Virginia's performance is available for review in the evaluation files maintained by the Big Stone Gap OSM Office.

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. However, with Change Notice REG-8-1, effective July 1, 2008, the calendar year reporting period in Table 1 for coal produced for sale, transfer or use was re-established and was effective for the 2008 evaluation year. Also beginning with the 2008 evaluation year, coal production for the two prior years reported on Table 1 was recalculated on a calendar year basis so that all three years of production reported in the table are directly comparable. This difference in reporting periods should be noted when attempting to compare coal production figures from annual evaluation reports originating both before and after the December 2006 revision to the reporting period.

TABLE 1			
Coal Produced for Sale, Transfer, or Use (Millions of Short Tons)			
Period	Surface Mines	Underground Mines	Total
Coal production <sup>A</sup> for entire State:			
Calendar Year			
CY 2006	9.708	18.171	27.879
CY 2007	9.063	16.086	25.149
CY 2008	8.039	14.982	23.021
<p><sup>A</sup></p> <p>Coal production as shown in this table is the gross tonnage and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported to OSM during the following quarter by each mining company on line 8 (a) of form OSM-1, 'Coal Reclamation Fee Report.' Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by States or other sources due to varying methods of determining and reporting coal production.</p> <p><b>Provide production information for the latest three full calendar years to include the last full calendar year for which data is available.</b></p>			

**TABLE 2**

**Inspectible Units**  
As of June 30, 2009

Coal mines and related facilities	Number and Status of Permits								Nbr.of Insp. Units <sup>A</sup>	Permitted Acreage <sup>B</sup> (100's of acres)				
	Active or temporarily inactive		Inactive Phase II bond release		Abandoned		Totals			Federal Lands		State/Private Lands		All Lands
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	IP	PP	Total
LANDS FOR WHICH THE STATE IS THE REGULATORY AUTHORITY														
Surface mines	0	150	0	9	0	0	0	159	159	0.0	0.0	0.0	645.6	645.6
Underground mines	0	169	0	17	0	0	0	186	186	0.0	0.0	0.0	74.4	74.4
Other facilities	0	63	0	5	0	1	0	69	69	0.0	0.0	0.0	69.9	69.9
Total	0	382	0	31	0	1	0	414	414	0.0	0.0	0.0	789.9	789.9
Total number of permits:										414				
Average number of permits per inspectable unit (excluding exploration sites):										1.00				
Average number of acres per inspectable unit (excluding exploration sites):										190.80				
Number of exploration permits on State and private lands:								0	On Federal lands <sup>C</sup> :		0			
Number of exploration notices on State and private lands:								90	On Federal lands <sup>C</sup> :		0			
<b>IP:</b> Initial regulatory program sites <b>PP:</b> Permanent regulatory program sites														
<sup>A</sup> Inspectable units include multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.														
<sup>B</sup> When a single inspectable unit contains both Federal lands and State/Private lands, enter the permitted acreage for each land type in the appropriate category.														
<sup>C</sup> Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.														



**TABLE 3**

**State Permitting Activity  
As of June 30, 2009**

Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres <sup>A</sup>	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	6	5	1,172	3	2	38	0	1	52	9	8	1,262
Renewals	25	20		41	17		29	28		95	65	
Transfers, sales, and assignments of permit rights	2	2		7	4		2	1		11	7	
Small operator assistance	0	0		0	0		0	0		0	0	
Exploration permits										0	0	
Exploration notices <sup>B</sup>											88	
Revisions (exclusive of incidental boundary revisions)		211			159			108			478	
Revisions (adding acreage but are not incidental boundary revisions)	12	5	171	1	0	0	0	2	51	13	7	222
Incidental boundary revisions	24	32	425	23	19	37	8	27	140	55	78	602
<b>Totals</b>	<b>69</b>	<b>275</b>	<b>1,768</b>	<b>75</b>	<b>201</b>	<b>75</b>	<b>39</b>	<b>167</b>	<b>243</b>	<b>183</b>	<b>731</b>	<b>2,086</b>

OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions: 39

<sup>A</sup> Includes only the number of acres of proposed surface disturbance.

<sup>B</sup> State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.

**TABLE 4****OFF-SITE IMPACTS (excluding bond forfeiture sites)**

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting	2	1	0	0	1	0	1	0	0	1	1	0
	Land Stability	9	2	1	4	2	0	4	2	0	1	1	0
	Hydrology	47	7	0	7	4	1	30	12	1	4	2	0
	Encroachment	8	3	0	3	3	2	0	2	1	2	1	0
	Other	12	2	3	4	1	1	2	2	0	1	1	0
Total		78	15	4	18	11	4	37	18	2	9	6	0

Total number of inspectable units (excluding bond forfeiture sites): 413

Inspectable units free of off-site impacts: 368

Inspectable units with off-site impacts: 45

**OFF-SITE IMPACTS ON BOND FORFEITURE SITES**

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting	0	0	0	0	0	0	0	0	0	0	0	0
	Land Stability	0	0	0	0	0	0	0	0	0	0	0	0
	Hydrology	0	0	0	0	0	0	0	0	0	0	0	0
	Encroachment	0	0	0	0	0	0	0	0	0	0	0	0
	Other	0	0	0	0	0	0	0	0	0	0	0	0
Total		0	0	0	0	0	0	0	0	0	0	0	0

Total number of inspectable units (only bond forfeiture sites): 1

Inspectable units free of off-site impacts: 1

Inspectable units with off-site impacts: 0

TABLE 5				
Annual State Mining and Reclamation Results				
Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	3,559		
Phase II	- Surface stability - Establishment of vegetation	853	0	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	2,664	0	0
Bonded Acreage <sup>A</sup>			Acres during this evaluation year	
Total number of new acres bonded during this evaluation year			3,572	
Number of acres bonded during this evaluation year that are considered remining, if available			0	
Number of acres where bond was forfeited during this evaluation year			0	
Bonded Acreage Status		Cumulative Acres		
Total number of acres bonded as of the end of last review period ( June 30, 2008) <sup>B</sup>		62,644		
Total number of acres bonded as of the end of this review period ( June 30, 2009) <sup>B</sup>		66,216		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2009 <sup>B</sup>		4,124		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2009 <sup>B</sup>		390		
Disturbed Acreage		Acres		
Number of Acres Disturbed during this evaluation year		3,808		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		90,447		
<sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.				
<sup>B</sup> Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).				

Brief explanation of columns D & E. The States will enter the total acreage under each of the three phases (column C). The additional columns (D & E & E) will "break-out" the acreage among Phase II and/or Phase III. Bond release under Phase II can be a combination of Phase I and II acreage, and Phase III acreage can be a combination of Phase I, II, and III. See "Instructions for Completion of Specific Tables," Table 5 for example.

<b>TABLE 6</b>			
<b>State Bond Forfeiture Activity</b> (Permanent Program Permits)			
Bond Forfeiture Reclamation Activity by SRA	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2008 (end of previous evaluation year) <sup>A</sup>	3		215
Sites with bonds forfeited and collected during Evaluation Year 2009 (current evaluation year)	0	\$ 0	0
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2009 (current evaluation year)	2		214
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2009 (end of current evaluation year) <sup>A</sup>	1		1
Sites with bonds forfeited but uncollected as of June 30, 2009 (end of current evaluation year)	0		0
Surety/Other Reclamation (In Lieu of Forfeiture)			
Sites being reclaimed by surety/other party as of June 30, 2008 (end of previous evaluation year) <sup>B</sup>	0		0
Sites where surety/other party agreed to do reclamation during Evaluation Year 2009 (current evaluation year)	0		0
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0
Sites with reclamation completed by surety/other party during Evaluation Year 2009 (current evaluation year) <sup>C</sup>	0		0
Sites being reclaimed by surety/other party as of June 30, 2009 (current evaluation year) <sup>B</sup>	0		0
<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date			
<sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date			
<sup>C</sup> This number also is reported in Table 5 as Phase III bond release has been granted on these sites			

TABLE 7	
<b>State Staffing</b> (Full-time equivalents at end of evaluation year)	
Function	EY 2009
Regulatory Program	
Permit Review	21.00
Inspection	31.00
Other (administrative, fiscal, personnel, etc.)	23.00
Regulatory Program Total	75.00
AML Program Total	24.00
<b>Total</b>	<b>99.00</b>



TABLE 8		
<b>Funds Granted To Virginia</b> <b>BY DSM</b> (During the Current Evaluation Year) <b>(Actual Dollars, Rounded to the Nearest Dollar)</b>		
Type of Funding	Federal Funds Awarded During Current Evaluation Year	Federal Funding as a Percentage of Total Program Costs
Regulatory Funding		
Administration and Enforcement Grant	\$ 3,998,498	50.00 %
Other Regulatory Funding, if applicable	\$ 0	0.00 %
Subtotal	\$ 3,998,498	
Small Operator Assistance Program	\$ 0	100 %
Abandoned Mine Land Reclamation Funding <sup>A</sup>	\$ 10,287,952	100 %
<b>Totals</b>	<b>\$ 14,286,450</b>	
<sup>A</sup> Includes funding for AML Grants, the Clean Streams Initiative and the Watershed Cooperative Agreement Program.		

<b>TABLE 9</b>		
<b>State Inspection Activity During Current Evaluation Year</b>		
<b>Inspectable Unit Status</b>	<b>Number of Inspections Conducted</b>	
	<b>Complete</b>	<b>Partial</b>
Active <sup>A</sup>	1,468	2,718
Inactive <sup>A</sup>	356	64
Abandoned <sup>A</sup>	4	0
<b>Total</b>	1,828	2,782
<b>Exploration</b>	393	0
<sup>A</sup> Use terms as defined by the approved State program.		



<b>TABLE 10</b>		
<b>State Enforcement Activity</b>		
<b>During Current Evaluation Year</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions<sup>A</sup></b>	<b>Number of Violations<sup>A</sup></b>
Notice of Violation	116	129
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	9	9
<sup>A</sup> Do not include those violations that were vacated.		

TABLE 11		
Lands Unsuitable Activity		
During Current Evaluation Year		
	Number	Acreage
Number Petitions Received	0	
Number Petitions Accepted	0	
Number Petitions Rejected	0	
Number Decisions Declaring Lands Unsuitable	0	0
Number Decisions Denying Lands Unsuitable	0	0

<b>TABLE 12 Optional</b>	
<b>Post Mining Land Use Acreage (after Phase III bond release)</b>	
<b>Land Use</b>	<b>Acreage Released during this Evaluation Year</b>
Cropland	0
Pasture/Hayland	13
Grazing Land	1,011
Forest	1,254
Residential	0
Fish & Wildlife Habitat	266
Developed Water Resources	0
Public Utilities	19
Industrial/Commercial	91
Recreation	0
Other (please specify): Industrial-Manufacturing	10
Other (please specify):	0
Other (please specify):	0
Other (please specify):	0
Other (please specify):	0
Other (please specify):	0
Other (please specify):	0
Other (please specify):	0
<b>Total</b>	<b>2,664</b>

**APPENDIX B**  
**STATE COMMENTS ON THE REPORT**  
**OSM DISPOSITION OF STATE COMMENTS**

## State Comments on the Report

### MEMORANDUM

TO: Ian Dye, OSM  
Big Stone Gap Field Office

FROM: Jackie Davis, Division Director

SUBJECT: Draft 2009 Annual Evaluation Report for Virginia

DATE: August 21, 2009

The Division of Mined Land Reclamation has reviewed the Draft 2009 Annual Evaluation Report for Virginia and offers the following comments:

#### Page 8:

##### A. Off-Site Impacts:

Left column, last sentence. Revise to "DMLR considered the impacts to resources as minor or moderate 94 percent of the time, compared to 92 percent last year." Most of the impacts were minor. Leading off with "moderate" suggests that most of the impacts were moderate in nature.

##### B. Customer Service: Add:

DMLR management met with field personnel on July 23, 2009 to emphasize:

- Routine maintenance checks after storm events and follow-up.
- Stress to mine personnel the need for routine maintenance after storm events.
- Maintain an accurate inventory of ponds and fills that require monitoring and certification.
- Remind operators to contact DMLR of occurrence of slides and effluent violations on their permits.
- Drainage on hollowfill underdrains and fill face
- Routinely review plan requirements with mine personnel.
- Participation by DMLR in DM/MSHA minesite safety reviews.

#### Page 16:

Corrections have been made on Table 5 (attached).

#### Page 17:

Corrections have been made on Table 6 (attached).

Table 6 - one outstanding bond forfeiture site (Virginia Mason, PN 1300880) that has not been reclaimed.

Pages 17 and 18:

Both pages are the same Table 6 – one should be deleted.

Page 22 - Table 10:

DMLR had 131 NOV's issued with 1 vacated for a total of 130 NOV's. The 9 CO's value is correct.

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS				
Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	3,559.00		
Phase II	- Surface stability - Establishment of vegetation	853.00		
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation  - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	2,664.00		
<b>Bonded Acreage</b>		<b>Acres during this evaluation year</b>		
Total number of new acres bonded during this evaluation year		3,572.00		
Number of acres bonded during this evaluation year that are considered re-mining, if available		Not Reportable		
Number of acres where bond was forfeited during this evaluation year		0.00		
<b>Bonded Acreage Status</b>		<b>Cumulative Acres</b>		
Total number of acres bonded as of the end of last review period (June 30, 2008) <sup>B</sup>		62,644.00		
Total number of acres bonded as of the end of this period (June 30, 2009) <sup>B</sup>		66,216.00		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2008 <sup>B</sup>		4,124.00		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2008 <sup>B</sup>		390.00		
<b>Disturbed Acreage</b>		<b>Acres</b>		
Number of Acres Disturbed during this evaluation year		3,808.00		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		90,644.00		

<sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.

<sup>B</sup> Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).

Brief explanation of columns D & E. The States will enter the total acreage under each of the three phases (column C). The additional columns (D & E) will "break-out" the acreage among Phase II and/or III. Bond release under Phase II can be a combination of Phase I and II acreage, and Phase III acreage can be a combination of Phases I, II and III. See "Instructions for Completion of Specific Tables," Table 5 for example.

TABLE 6

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
Bond Forfeiture Reclamation Activity by RA	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2008 (end of previous evaluation year) <sup>A</sup>	1		1.00
Sites with bonds forfeited and collected during Evaluation Year 2009 (current evaluation year)	0		0.00
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0.00
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2009 (current evaluation year)	0		0.00
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2009 (end of current evaluation year) <sup>A</sup>	1		1.00
Sites with bonds forfeited but uncollected as of June 30, 2009 (end of current evaluation year)	0		0.00
<b>Surety/Other Reclamation (In Lieu of Forfeiture)</b>			
Sites being reclaimed by surety/other party as of June 30, 2008 (end of previous evaluation year) <sup>B</sup>	0		0.00
Sites where surety/other party agreed to do reclamation during Evaluation Year 2009 (current evaluation year)	0		0.00
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0.00
Sites with reclamation completed by surety/other party during Evaluation Year 2009 (current evaluation year) <sup>C</sup>	0		0.00
Sites being reclaimed by surety/other party as of June 30, 2009 (current evaluation year) <sup>B</sup>	0		0.00

<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date.

<sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation, and the site is not fully reclaimed as of this date.

<sup>C</sup> This number also is reported in Table 5, since Phase III bond release has been granted on these sites.



## OSM Disposition of State Comments

OSM adopted the changes as outlined in the previous DMLR memorandum and email except as noted below.

### TABLE 5

DMLR has an incorrect amount for the **Number of Acres Disturbed at the end of the evaluation year (cumulative)**, the correct acreage is 90,447 acres.

### TABLE 6

For Evaluation Year 2008, we reported:

3 sites with bonds forfeited and collected that were unreclaimed as of June 30, 2008 (end of current evaluation year).

For Evaluation Year 2009, we must report:

3 sites with bonds forfeited and collected that were unreclaimed as of June 30, 2008 (end of previous evaluation year).

We are reporting 2 of these sites as reclaimed during Evaluation Year 2009, leaving 1 site with the bond forfeited and collected that was unreclaimed (Virginia Mason permit number 1300880) as of June 30, 2009 (end of evaluation year).

### TABLE 10

DMLR and OSM reviewed DMLR's enforcement actions and reconciled that DMLR issued 116 NOV actions with 129 violations.

We identified an off-site impact on one permit that had not been included in Table 4 Off-Site Impacts. Table 4 has been revised to show 368 permits free of off-site impact instead of 369. As a result of this omission the narrative has been revised as follows:

Page 8: Fifty-six percent of this year's violations resulted in off-site impacts compared to 49 percent last year.

DMLR considered the impacts to resources as minor or moderate 95 percent of the time, compared to 92 percent last year.